

**Title: Use of delegated emergency powers**

**Lead Officer: Chris Elliott**

**Portfolio Holder: Andrew Day**

**Public report**

**Wards of the District directly affected: All**

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: Yes

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: None

Final Decision: Yes

Accessibility checked: Yes

**Officer/Councillor Approval**

<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive	14.05.21	Chris Elliott
Head of Service		
CMT	14.05.21	Chris Elliott; Andrew Jones
Section 151 Officer	14.05.21	Mike Snow
Monitoring Officer	14.05.21	Andrew Jones
Finance	14.05.21	Mike Snow
Portfolio Holder(s)	14.05.21	Andrew Day; Jan Matecki

### 1. Summary

- 1.1 This report asks Cabinet to note a decision taken under delegated power CE(4), after appropriate consultation with, and approval from, the five Group Leaders.
- 1.2 Delegated authority CE(4) provides that:  
*The Chief Executive be authorised Deal with urgent items that occur between meetings, in consultation with the relevant Deputy Chief Executive, Head(s) of Service (if available) and Group Leaders (or in their absence Deputy Group Leaders) subject to the matter being reported to the Executive at its next meeting.*

### 2. Recommendation

- 2.1. That Cabinet note the appropriate use of delegated powers as provided by CE(4) in the Scheme of Delegation and note the drawdown from the Contingency Budget the sum referred to within the Private and Confidential Appendix 1.

### 3. Reasons for the Recommendation

- 3.1. Members will be aware that the Council had been in discussions with its former partner in the PSP Warwick Limited Liability Partnership (LLP), Public Sector PLC (PSP), since March 2019 and that following the decisions made by Executive on 21 August 2019 this included discussions on the dissolution of the LLP in addition to the cessation of all work on the former HQ relocation project.
- 3.2. The discussions proved to be both complex and contentious. Regular briefings were provided to both Executive and the Leadership Coordination Group, comprised of the Group Leaders during 2020 and 2021.
- 3.3. In November 2020 both parties, the Council and PSP, agreed to enter into formal mediation, overseen by an independent mediator to attempt to resolve matters between them. The Group Leaders gave approval under delegated power CE(4) authorising potential full and final settlement terms for the Council's negotiating team to use in the mediation session arranged for 1 December 2020.
- 3.4. Despite a full day of (virtual) face to face negotiation an agreement was not reached but a potential route forward was agreed by both parties, sufficient to allow the formal mediation process to be continued. Revised authority under CE(4) was sought and obtained by officers to allow the negotiations to continue.
- 3.5. Detailed discussions, both through the party's respective legal teams and through direct conversation between the principal officer leads at the Council and PSP continued since the start of the year, culminating in a final draft agreement being produced in late April. Approval for this document was provided by the Group Leaders, again through the exercise of CE(4), on 3 May 2021.

- 3.6. A last minute change to the final draft agreement was required and again this was approved by the Group Leaders, through the exercise of delegated authority CE(4) on 10 May 2021.
- 3.7. This ensured that both parties were able to sign an agreement on 13<sup>th</sup> May 2021 in full and final settlement of any actions, claims, rights, demands or set offs between the parties, removing any threat of legal action by either party against the other, for the LLP's accounts to be submitted to Companies House and for the LLP to be formally dissolved.
- 3.8. The terms of the agreement are subject to legal privilege and commercial confidentiality, to ensure, *inter alia*, that there is no prejudicial impact on the commercial activities of PSP. However, if individual members wish to be briefed on the terms, as agreed through the exercise of the delegated authority, beyond any briefing provided by their respective Group Leader, this can be arranged by the Chief Executive.

### 4. Policy Framework

#### 4.1. Fit for the Future (FFF)

- 4.1.1. The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The information below illustrates the impact of the decision made under delegated powers in relation to the Council's FFF Strategy.

#### 4.2. FFF Strands

##### 4.2.1 External impacts of the decision

**Money- Infrastructure, Enterprise, Employment** – The conclusion of the discussions with PSP, means the Council is completely unencumbered in its decision making regarding future options relating to sites within its ownership, which were previously designated for development by the LLP.

##### 4.2.2 Internal impacts of the decision

**Money - Firm Financial Footing over the Longer Term** - The conclusion of the discussions with PSP, means the Council has an agreement that is fully compliant with the budget provision approved by Full Council in March 2021, and the risk of any additional legal costs is removed.

#### 4.3. Changes to Existing Policies

- 4.3.1 There are no changes to existing policies required as a result of the exercise of delegated powers.

#### 4.4 Impact Assessments

- 4.4.1 No impact assessments were required in relation to this decision

**5. Budgetary Framework**

- 5.1 There are no adverse budgetary impacts arising from this decision as the provisions within the settlement are wholly catered for within the agreed budget for 2021/22. A Contingency Budget was created within the February 2021 Budget Report. As part of use of delegated powers, it was agreed to drawdown from this Budget the sum referred to in the Confidential and Private Appendix by way of settlement.

**6. Risks**

- 6.1. The risks arising from the failure to reach timely agreement with PSP have been eliminated by the exercise of the delegated powers.

**7. Alternative Option considered**

- 7.1. This report relates to the noting of a retrospective decision made under delegated powers so there are no alternative options available to members.
- 7.2. The options that resulted in the Group Leaders giving their authority to the final agreement were fully explored during briefings held in 2020 and 2021.